

**§ 5.522 Prohibition of assistance to noncitizen students.**

(a) *General.* The provisions of §§ 5.516 and 5.518 permitting continued assistance or temporary deferral of termination of assistance for certain families do not apply to any person who is determined to be a noncitizen student as in paragraph (c)(2)(A) of Section 214 (42 U.S.C. 1436a(c)(2)(A)). The family of a noncitizen student may be eligible for prorated assistance, as provided in paragraph (b)(2) of this section.

(b) *Family of noncitizen students.* (1) The prohibition on providing assistance to a noncitizen student as described in paragraph (a) of this section extends to the noncitizen spouse of the noncitizen student and minor children accompanying the student or following to join the student.

(2) The prohibition on providing assistance to a noncitizen student does not extend to the citizen spouse of the noncitizen student and the children of the citizen spouse and noncitizen student.

**§ 5.524 Compliance with nondiscrimination requirements.**

The responsible entity shall administer the restrictions on use of assisted housing by noncitizens with ineligible immigration status imposed by this part in conformity with all applicable nondiscrimination and equal opportunity requirements, including, but not limited to, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-5) and the implementing regulations in 24 CFR part 1, section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations in 24 CFR part 8, the Fair Housing Act (42 U.S.C. 3601-3619) and the implementing regulations in 24 CFR part 100.

**§ 5.526 Protection from liability for responsible entities and State and local government agencies and officials.**

(a) *Protection from liability for responsible entities.* Responsible entities are protected from liability as set forth in Section 214(e) (42 U.S.C. 1436a(e)).

(b) *Protection from liability for State and local government agencies and officials.* State and local government agencies and officials shall not be liable for

the design or implementation of the verification system described in § 5.512, as long as the implementation by the State and local government agency or official is in accordance with prescribed HUD rules and requirements.

[61 FR 60540, Nov. 29, 1996]

**§ 5.528 Liability of ineligible tenants for reimbursement of benefits.**

Where a tenant has received the benefit of HUD financial assistance to which the tenant was not entitled because the tenant intentionally misrepresented eligible status, the ineligible tenant is responsible for reimbursing HUD for the assistance improperly paid. If the amount of the assistance is substantial, the responsible entity is encouraged to refer the case to the HUD Inspector General's office for further investigation. Possible criminal prosecution may follow based on the False Statements Act (18 U.S.C. 1001 and 1010).

**Subpart F—Income Limits, Annual Income, Adjusted Income, Rent, and Examinations for the Public Housing and Section 8 Programs**

AUTHORITY: 42 U.S.C. 1437a, 1437c, 1437d, 1437f, 1437n, and 3535(d).

SOURCE: 61 FR 54498, Oct. 18, 1996, unless otherwise noted.

**§ 5.601 Purpose and applicability.**

(a) This subpart establishes definitions and requirements concerning income limits for admission, annual income, adjusted income, total tenant payment, utility allowances and reimbursements, and reexamination of income and family composition for:

(1) HUD's public housing programs, including its public housing homeownership programs.

(2) Housing assisted under section 8 of the United States Housing Act of 1937 (the 1937 Act) (42 U.S.C. 1437f).

(i) Section 5.613 (Total tenant payment) and the definitions of "tenant rent" and "total tenant payment" found in § 5.603 do not apply to the Section 8 Rental Voucher Program.

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(ii) Section 5.615 (Utility reimbursement) and the definition of *utility reimbursement* found in § 5.603 also do not apply to the Section 8 Rental Voucher Program. For the Voucher Program, in cases where the amount of the HAP payment exceeds the rent to owner, the excess will be paid to the family.

(iii) Section 5.607 (Income limits for admission) does not apply to the Section 8 Rental Voucher and Rental Certificate Programs.

(3) Applicants and tenants assisted under sections 10(c) and 23 of the 1937 Act as in effect before amendment by the Housing and Community Development Act of 1974 (42 U.S.C. 1410 and 1421b (1970 ed.)).

(b) This subpart does not apply to HUD's Indian housing programs. The analogous rule that applies to Indian housing is located at 24 CFR part 950.

### § 5.603 Definitions.

As used in this subpart:

(a) The terms *elderly person*, *low-income family*, *person with disabilities*, *State*, and *very low-income family* are defined in section 3(b) of the 1937 Act (42 U.S.C. 1437a(b)).

(b) The terms *1937 Act* and *public housing agency (PHA)* are defined in § 5.100.

(c) The terms *disabled family*, *elderly family*, *family*, and *live-in aide* are defined in § 5.403.

(d) The following terms shall have the meanings set forth below:

*Adjusted income.* See § 5.611.

*Annual income.* See § 5.609.

*Child care expenses.* Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care. In the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

*Dependent.* A member of the family (except foster children and foster

adults) other than the family head or spouse, who is under 18 years of age, or is a person with a disability, or is a full-time student.

*Disability assistance expenses.* Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

*Full-time student.* A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

*Medical expenses.* Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

*Monthly adjusted income.* One twelfth of adjusted income.

*Monthly income.* One twelfth of annual income.

*Net family assets.* (1) Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(2) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under § 5.609.

(3) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market